

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0242P

Riverboat Tax

Liability No. 00-0000018

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, at hearing on June 12, 2000, protested the penalty assessed for a late payment and states that the primary individual responsible for the transfer was not at work. The taxpayer further states it made the missed payment on the next business day. In addition to human error, taxpayer states it has established a new management staff, has replaced old software with new, plus back up, with a daily reminder to its staff. Currently it has three people who are authorized to make payment .

In a letter dated April 12, 2000, taxpayer states that it experienced a turnover and the importance of processing the EFT transaction was not emphasized to the individual who assumed the responsibility.

Taxpayer is required to remit Riverboat Tax on a daily basis. Taxpayer paid its February 16, 2000 Riverboat Tax on Tuesday, February 22, 2000 because the banks were closed on Monday, Washington's Birthday and it failed to remit the tax by Friday, February 18, the due date. The EFT section's Director, in a letter dated April 13, 2000 denied the taxpayer a waiver of the penalties due to taxpayer's past history. The taxpayer protested to the Legal Division and requested a hearing.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent when it failed to timely remit its EFT payment for February 16, 2000.

On April 13, 2000, the EFT Section advised the taxpayer that negligence was present and the penalty waiver was denied. On May 12, 2000, the taxpayer requested a hearing.

At hearing, taxpayer states there are several factors which contributed to the problem of remitting tax timely, i.e. 1) The employee responsible for the transfer was not at work, 2) Taxpayer established a new management staff; 3) Taxpayer has replaced old software with new plus back up with a daily reminder to the staff 4) It has increased the number of people who can make the transfer to three which has been in effect for two months; 5) It has made changes in finance and software to minimize the late payments. Taxpayer states it would like to establish an account to make payment in advance, a deposit on account, or a prepay account.

Taxpayer was assessed a ten percent (10%) penalty because it made a late EFT payment and had no controls in place to assure that no further late payments would be remitted. Taxpayer had previously written the department to assure it that procedures were in place to avoid the late payments.

Taxpayer apparently did not have the procedures in place and did not show reasonable cause to allow the department to waive the penalty.

FINDING

The taxpayer's protest is denied.